IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 16503 of 2004

Between:

M.N. Naidu (E.No.751041), S/o. Late Venkataramana,
Desapatrunipalem, Paravada Mandal, Visakahapatnam, Visakhapatnam .
District.

..... PETITIONER

AND

1 The Regional Manager, APSRTC, Visakahapatnam, Visakhapatnam District.
2 The Personal Officer, APSRTC, Visakhapatnam, Visakhapatnam District.
3 The Dept Manager, APSRTC, Jangareddygudem, E.G.District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue an appropriate Writ, Order or direction particularly one in the nature of writ of Mandamus declaring the order of the 2nd respondent herein dt. 17.12.2003 vide proceedings No.P3/684 (2)/2002 RM/VSP, referring to the proceedings of the 1st respondent dt. 27.10.2001 vide Lr.No.P3/255(3)/01-RM/VSP (copy of which was not served on the petitioner) deleting the name of the petitioner from the Panel of Drivers of APSRTC as arbitrary, illegal, violative of principles of natural justice and also violative of Articles -14 and 16 of the Constitution of India and consequently direct the respondents herein to re-engage the Petitioner into service as Driver Grade II in APSRTC forthwith.

Counsel for the Petitioner:MR.CHALLARI NAGESWARA RAO

Counsel for the Respondent No.: KUM.B.G.UMA DEVI

(SC FOR APSRTC)

The Court made the following :

ORDER:

The petitioner contends that he is an ex-serviceman. He was engaged by the respondents as a Driver after due selection in 1998 under ex-servicemen' quota. He worked as a Driver Grade-II for the period from 24-8-1998 to 24-7-1999, 9-4-2000 to 30-6-2000 and from 28-3-2001 to 30-3-2001. The petitioner further contends that on 30-6-2001, the 3rd respondent passed an order disengaging the petitioner from service on the ground that he failed to attend duty during the strike period. He approached this Court through this Writ Petition seeking a direction to the respondents to restore his name in the list of selected Drivers and to reengage him as a Driver.

It is an undisputed fact that the petitioner was selected as a Driver on temporary basis through properly constituted committee of the Corporation and his name was kept in the list of the selected candidates to give regular appointment as and when regular vacancies arise.

The grievance of the petitioner is that the respondents without giving any notice disengaged him from service on the ground that he failed to attend the duty, during the strike period. The Supreme Court in ***S.Govinda Raju Vs. K.S.R.T.C.*** held that;

> *" once a candidate is selected and his name is included in the select list for appointment in accordance with the Regulations, he gets a right to be considered for appointment as and when vacancy arises. On the removal of his name from the select list serious consequences entail as he forfeits his right to employment in future. In such a situation even though the Regulations do not stipulate for affording any opportunity to the employee, the principles of natural justice would be attracted and the employee would be entitled to an opportunity of explanation, though no*

elaborate enquiry would be necessary"

From the above judgment of the Supreme Court, it is essential that an employee recruited through selection process, though appointed on temporary basis would be afforded an opportunity before disengaging him from service. Admittedly, the petitioner was not afforded any opportunity to give explanation before issuing impugned order.

In the light of the above circumstances, the impugned order dated 30-6-2001 is held null and void and is against the principles of natural justice. The impugned order is accordingly set aside. The Writ Petition is allowed directing the respondents to restore the name of the petitioner in the selection list of the panel of Drivers. The respondents may also reengage the petitioner as a Driver Grade-II as and when necessity arises. This order will not preclude the Respondents from conducting any enquiry if they so desire.

The Writ Petition is accordingly allowed. No order as to costs.

Dr.G.Yethirajulu,J.

15th September, 2004.

KM

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Regional Manager, APSRTC, Visakahapatnam, Visakhapatnam District.
2 The Personal Officer, APSRTC, Visakhapatnam, Visakhapatnam District.
3 The Dept Manager, APSRTC, Jangareddygudem, E.G.District.

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THE HON'BLE DR JUSTICE G.YETHIRAJULU

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15th September, 2004.